

Autonomy as a Basic Principle in Ethics and Law

Clarification of the Concept of Autonomy in Jurisprudence as the Basis for Understanding Non-Territorial Autonomy

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Published in:

Non-Territorial Autonomy as an Instrument for Effective Participation of Minorities

Publication date:

2021

Document Version

Publisher's PDF, also known as Version of record

Citation for published version (APA):

Rendtorff, J. D. (2021). Autonomy as a Basic Principle in Ethics and Law: Clarification of the Concept of Autonomy in Jurisprudence as the Basis for Understanding Non-Territorial Autonomy. In B. Vizi, B. Dobos, & N. Shikova (Eds.), *Non-Territorial Autonomy as an Instrument for Effective Participation of Minorities* (pp. 15-24). Centre for Social Sciences, Budapest.

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Autonomy as a basic principle in ethics and law: Clarification of the concept of autonomy in jurisprudence as the basis for understanding non-territorial autonomy

Introduction

In a modern, pluralistic, liberal society, personal autonomy – the right to choose one's own way of life for oneself – is considered to be of supreme value (Charlesworth, 1993, p. 1). The principle of autonomy is the principle of liberty (Rendtorff & Kemp, 2000; Rendtorff, 2008; Kemp & Rendtorff, 2009). Autonomy consists of 'auto' and 'nomos'. Combined, these translate as 'self-government' in the Greek language; indeed, in Ancient Greece, a city state was said to be autonomous when it was self-governing (Dworkin, 1988, p. 20). People are considered to be autonomous when they are able to control their own lives and decisions, just as an independent government acts to control its own policies (Beauchamp & Childress, 1979, p. 68). In the western tradition, autonomy has been linked to the freedom of the individual and their ability to develop freely according to their personal choices, desires and wishes for their future life. The idea of a pluralist society is that people, as autonomous moral agents, are free to choose for themselves, even if their choices are mistaken (Charlesworth, 1993). Autonomy is a second-order capacity of individuals to reflect on their first-order preferences and desires (Dworkin, 1988). It is important to stress that a theory of autonomy must include positive liberty and an individual's active choices.

Against this background, five important meanings of autonomy can be put forward: (1) the capacity for the creation of ideas and goals for life; (2) the capacity for moral insight, 'self-legislation' and privacy; (3) the capacity for rational decisions and actions without coercion; (4) the capacity for political involvement and personal responsibility; and (5) the capacity for informed consent to actions imposed from outside.

Legal philosophy of autonomy

Aristotle saw a close connection between autonomy and voluntary action (Crisp, 2000). A voluntary action must be freely chosen by the agent. A lack of external restraint and intervention is thus integral to Aristotle's concept of autonomy. For Immanuel Kant, to have moral freedom and autonomy is an end in itself and gives the person as a human being with humanity unconditional worth (Beauchamp & Childress, 1979, p. 72). From this perspective, a person is their own moral agent or legislator. Autonomy refers to the capacity of the human being to be a self-legislative rational being, to take part in universal moral law (Hansson, 1992). This is

not to be determined by external heteronomous conditions for action. This autonomy is built on the good will of the human person as a moral being. A moral agent is a source of moral value, and this is intrinsically valuable as an end in itself. Human beings are different from animals and the natural world because of their capacity for moral autonomy. As such, we take part in two worlds: the world of natural causality, as bodily incarnated beings, and the world of moral reason, as beings that participate in the world of reason (Rendtorff & Kemp, 2000; Rendtorff, 2008; Kemp & Rendtorff, 2009).

An insight into Kant's categorical imperative is an insight into moral law as opposed to hypothetical imperatives and specific rules of jurisprudence. The first version of the categorical imperative in Kant's philosophy can be understood as the principle of universality. As such, moral actions are a result of the second rule which is the imperative of respecting all human beings as an end in themselves in universality of moral choices. Actions are the result of the inner autonomy of the self-legislating subject and not the consequence of external heteronomous principles. The Kantian vision of human autonomy implies that autonomy means that an individual respects the moral law of universality of moral principles and this includes an idealised version of autonomy built on the ideal of the free human subject, where the subject makes decisions according to the universality of moral law. A third aspect of a moral autonomous action is the respect for a community of human beings as ends in themselves where the imperative of morality and jurisprudence is that the law should be valid for all rational human beings and, further, should not contradict the civilising process of humanity in relation to society and natural teleology (Rendtorff & Kemp, 2000; Rendtorff, 2008; Kemp & Rendtorff, 2009). From the point of view of a political community this means that an autonomous political community is a society that respects the freedom and autonomy of all its citizens. This is the case for both geographically defined political communities as well as communities characterized as based on non-territorial autonomy. What is important for a successful political community is indeed the respect for the right of citizens to be free moral and political actors. Therefore, a central dimension of non-territorial autonomy is respect for the Kantian principles of morality, politics and jurisprudence according to the rule of law.

For the liberal utilitarian philosopher John Stuart Mill, autonomy consists of the possibility of carrying out your own actions and making your own decisions. It is also freedom from coercion. Along with John Locke and Thomas Paine, Mill is one of the initiators of the ideal of the rights of humanity and of the idea of personal autonomy as central to liberal democracy. An ideal definition of democratic politics includes the freedom of the individual to choose their life in society. In relation to the state, an individual's personal liberty should be as great as possible, and paternalistic action should be avoided. In a liberal society, there can be no substantive agreement and consensus about fundamental lifestyles and religious values (Charlesworth, 1993). The only real substantive value is the recognition of individual, in other words, personal autonomy. Following Mill, non-territorial autonomy would also have to lay emphasis on the liberal rights of individuals participating in the political community (Rendtorff & Kemp, 2000; Rendtorff, 2008; Kemp & Rendtorff, 2009). What is important in non-territorial autonomy as well as territorial autonomy is therefore the respect for individual autonomy and the rights of individuals to make their own decisions. Non-territorial autonomy should be based on liberal democracy and the rights of the individuals to take part of liberal democracy and be respected for his or her personal autonomy. Liberalism would go for protection of individual rights of citizens in every kind of state formation, regardless of territorial or non-territorial autonomy.

The close connection between autonomy, moral independence and personal self-development is also stressed in European personalist and existentialist philosophies that emphasise the individual's personal freedom, engagement and moral responsibility. From the existentialist perspective, autonomy also includes a process of reflection and the active presence of the individual as a politically engaged citizen in the political processes of society (Sartre, 1943). In existential freedom and engagement, the individual is fundamentally responsible for his or her actions in society (Rendtorff & Kemp, 2000; Rendtorff; Rendtorff, 2008; Kemp & Rendtorff, 2009). Existential freedom also means participation and action for a better political community. Existential freedom is a condition of personal identity and self-development. Jean-Paul Sartre's philosophy of human freedom, in which the human being is constantly choosing their own existence and life in basic autonomy, is an example of the process of self-creation and personal choice being fundamental to the concept of autonomy. But even though the individual is free to choose their own existence, this condition is often hidden in an inauthentic life of self-deception. According to Sartre, a philosophy of existential authenticity can overcome the bad faith and self-deception that are so common in the life of the modern individual. Thus, following Sartre, non-territorial autonomy would require respect for the existential freedom of the individual as essential for decision-making in the political community. Non-territorial autonomy may also be developed on the basis of existential engagement of citizens in order to promote their self-realization in the political community as essential for respect for their humanity as free individuals in society.

Moral autonomy and political autonomy

Moral autonomy is related to sincere choice and personal decision-making, rather than to the invention of genuinely personal values. It is a question of free moral choice according to a set of values that the individual considers right and just (Dworkin, 1988, p. 34). The question is whether autonomy includes a total substantial and procedural independence, or if it is possible to be autonomous and, at the same time, rely on communitarian values, the legal system, and moral or religious authorities. This leads to the question of whether it is possible to act autonomously in situations with a high degree of external determination. Further, in what ways can autonomous decisions rely on the opinions of others? In this context, moral autonomy is clearly related to free and autonomous choice, but this does not imply total independence from external factors. Here, when we speak of non-territorial autonomy, it is important to stress that non-territorial autonomy should respect the moral autonomy of citizens in society. Non-territorial autonomy should allow individuals to be free and relate freely to communitarian, collective and religious values.

As the political origins of the term 'auto-nomos' suggest, there is also a close connection between individual autonomy and the political organisation of society (Dworkin, 1988, p. 34). This may be the reason why autonomy is so important for political independence. In modern society, the principles of justice presuppose that human individuals are free and equal. Society develops through a process of construction in which autonomous agents are supposed to agree rationally on some common principles of justice (Rendtorff & Kemp, 2000; Rendtorff, 2008; Kemp & Rendtorff, 2009). In this context, autonomy often includes other basic characteristics, for example rationality, individuality, independence, and moral responsibility of the human person. It is important to stress that a society built on responsible, autonomous

decision-making may also have communitarian engagements and common values (Habermas, 1992). The choice of such values should be motivated by individual decision-making rather than collective coercion, but autonomy does not *a priori* exclude common decision-making. Therefore, in order to promote non-territorial autonomy the respect for the autonomy and free decision-making of individuals is essential.

The European concept of political democracy focuses on the idea of autonomy and on the 'good life for and with the other in just institutions' (Ricoeur, 1990). This concept consists of the recognition of political society as a deliberative democracy founded on respect for the political sphere and the confrontation between citizens as the basis of common values (Rawls, 1992). Applied to non-territorial autonomy, there should be both external and internal recognition of this vision of the respect for the good life as the basis for recognition of the respect for the individual in the just institutions of the political community.

It is central to the idea of liberal democracy that the individual has the possibility of self-realisation and of self-development. A legitimate government has to be built on the self-determination of autonomous individuals. The protection of individual autonomy is therefore a basic principle in most European constitutions. This central importance of autonomy for the development of the human person (personal agency), political democracy and our conceptions of moral decision-making can help explain the significance attributed to autonomy as a fundamental right and as justification for protecting privacy, confidentiality, refusal of treatment and informed consent. Applied to the development of structures, institutions and procedures for political systems of non-territorial autonomy, it is a key dimension of such a society with political autonomy that it respects the fundamental rules and institutions of democratic agency based on political, social and economic freedoms of the individuals in this society.

Informed consent and autonomy

Following the Nuremberg Code and the Declaration of Helsinki which have been essential in the development of medical ethics and regulation of the field of protection of human beings in medical research, the notion of 'informed consent' as an expression of autonomy in medical ethics and medical practice has been introduced as a basic requirement in most European countries. This concept of autonomy can also be applied to the discussion of non-territorial autonomy, since it can be argued that the idea of informed consent and participation of citizens in decision-making is essential for the developments of good and just societies.

Following the definition of informed consent in medicine, every medical intervention must be legitimated by informed consent. The patient must have the right to make their own decisions about treatment and refusal of treatment. The concept of informed consent was introduced to secure self-determination by the patient undergoing medical treatment (Rendtorff & Kemp, 2000; Rendtorff, 2008; Kemp & Rendtorff, 2009). The patient has the right to make decisions about their own body in the context of medical treatment. Some basic requirements of the doctrine of informed consent are necessary for the concept to function in practical medicine (Dworkin, 1988). The patient must have a meaningful choice and freedom in relation to the process of medical treatment. Therefore, the patient must engage in the process of the treatment intentionally and with understanding and knowledge. They must be free and capable to make such decisions, and free from violence and coercion. An autonomous action implies: (1) freedom, (2) authenticity, (3) deliberation and (4) moral reflection

(Beauchamp and Childress, 1979). Such decisions are compatible with existing moral traditions in hospitals as long as they are substantially free and independent. Informed consent should be considered as an event, as a process of communication and action between physician and patient that eventually leads to the decision and the undertaking of treatment. In this context, the essential elements of informed consent are: (1) disclosure, (2) understanding, (3) voluntariness, (4) competence and (5) consent (Dworkin, 1988). This account of informed consent as a basic feature of medical decision-making has, until now, largely been determined by the patient's personal autonomy.

This concept of autonomy can be transferred to the discussion of the development of procedures for regulation of the concept of autonomy. The idea is that the key elements of informed consent should guide the development and creation of structures and institutions of non-territorial autonomy.: (1) freedom, (2) authenticity, (3) deliberation and (4) moral reflection as well as (1) disclosure, (2) understanding, (3) voluntariness, (4) competence and (5) consent are essential principles of decision-making for developing good structures of non-territorial autonomy. This is the case for the political communication and process of setting up regions of non-territorial autonomy, but it should also be guiding for the political deliberation processes within regions of non-territorial autonomy, once they have been established.

The concept of autonomy as a basic method of regulation in law and jurisprudence is, however, not without genuine difficulties (Rendtorff & Kemp, 2000; Rendtorff, 2008; Kemp & Rendtorff, 2009). Generally, autonomy is an ideal notion, referring to an individual's full self-control. But there might be defects in the individual's ability to control their actions or desires or both. The individual might have first-order desires that they do not like at a second-order level. Also, the individual's capacity for reasoning might be limited. They might also make decisions on the basis of wrong or false information. Further, the individual's desires or wishes might be confused. Personal identity is not always stable, and the individual sometimes does not know what they really wish for (Dworkin, 1988). These challenges are also at stake when we talk about autonomy at the political level. Democracies are not always rational and autonomy is sometimes very fragile and vulnerable in the face of political power and changes in political authorities in communities.

Criticism of the philosophy of autonomy

A communitarian criticism of the concept of autonomy is that freedom and diversity cannot be absolute values (Rendtorff & Kemp, 2000; Rendtorff, 2008; Kemp & Rendtorff, 2009). Communitarian values refer to a community life that is built on public morality rather than individual autonomy. In this context, the communitarian critique is based on the idea that the concept of autonomy presupposes an institutional and cultural background that refers to common values. Autonomy should also not rule out social obligations to help others. An account of autonomy cannot be totally libertarian but must recognise that the subject is situated within a large number of social practices, commitments, compassions and relations to other people (Benhabib, 1994). Focussing solely on autonomy causes us to forget the fragile and vulnerable components of the human condition, which require care and respect. However, this account breaks away from the idea of autonomy as the only foundation of a liberal society; rather, a broader concept of the protection of the human person is needed. Thus, the communitarian critique of the ideal of autonomy points to the core dilemma of the concept

of non-territorial autonomy, since this concept really combines autonomy and community in the case where non-territorial autonomy searches to protect an ethnic group, a specific culture, a minority within an established state and political community. Here, the focus on this minority community aims at giving this group political autonomy. The challenge is however to be sure that individual members of this group still receive political protection of basic political rights and autonomy. Here, the tension between respect for autonomy and community is essential to the concept of non-territorial autonomy.

Along similar lines to the communitarian critique of autonomy are the feminist challenges to this concept of autonomy. The feminist critique focusses on the 'unencumbered self' that is said to be predominant in the ideal of the autonomous self in ethics and politics (Benhabib, 1994). This critique argues that the ideal of autonomy comes from an abstract male universalism and does not take into account the reality of human life and especially the situation of women. From a feminist perspective, it is absurd to argue for autonomy as an ideal because the individual is always situated in a multiplicity of contexts and life situations in which dependency on others is of central importance. Further, the narrative structure of personal identity, and of the experiences of the individual, shows that decision-making is always the result of the individual's interactions with the social context. The feminist position also emphasises the embodied and embedded character of human experiences, which means that the concept of the self-limits the abstract notion of personal autonomy. Instead, the subject is constituted in concrete relations of gender and community. The subject is always dependent on a body, culture and life world, where the individual stands in relation to 'concrete others' in, for example, the family. The concept of autonomy as a basic concept of law and legal regulation is therefore very challenging, and the adequate protection of the human person must take into account the other dimensions of the protection of individuals: the principles of dignity, integrity and vulnerability.

Thus, the feminist concept of autonomy can be mobilised as a strong argument for non-territorial autonomy, based on belonging to a community of particular ethnic, cultural, religious or social groups since every human being is placed in a specific culture and life-world. But the feminist criticism of abstract autonomy also reveals a paradox and tension within the concepts of territorial and non-territorial autonomy since it demonstrates that participation to community may sometimes also be a limitation of individual freedom for example when certain groups and cultures limit the rights of women. Nevertheless, the feminist concepts also suggest that emancipation of the individual may happen from within when the participants of a minority culture changes the repressive forces of this culture without leaving this particular ethnic group. Thus, within a community and particular group of cultural religious or social autonomy, there is an important work of respect for women rights and autonomy that needs to be done in order to ensure political autonomy of all participants in this community of non-territorial autonomy.

Beyond autonomy with non-territorial autonomy

The post-structuralist philosophers Deleuze and Guattari (1980) are even more critical of the concepts of autonomy and territorialisation than the feminists, and they base their analysis on the concepts of space and territorialisation from Hegelian and Marxist philosophy. Deleuze and Guattari propose a pragmatic political philosophy that combines schizoanalysis with the search for novelty in order to overcome the conformity and censorship of society.

The idea of minority, and how to become a minority, in the machinery of mass society is an essential concept in *Mille Plateaux*, a key work of post-structuralist political philosophy, which distinguishes between minority and majority. The majority is a system that imprisons the creative forces in mass society, and it constitutes a disposition of domination and normalisation. In contrast, the minority consists of a totality of molecular singularities that preserve and develop the creative forces. The majority is a dominating group that uses power to enact their authority on the minority, an 'agencement' of power that dominates people and their singularities. However, the minority increases creativity and normalises the people in society. The majority is defined by essentialist concepts such as man, male, adult, habitant of the city, European and Caucasian, and these become the constituting norms of the machinery of mass society. Applied to the discussion of non-territorial autonomy, it can be argued that efforts to avoid respect for non-territorial autonomy are based on such an essentialist political philosophy of domination.

In contrast, minority, and to become a minority ('devenir minoritaire'), implies a concern for minority groups, which might include, for example, black people, women or immigrants. In fact, the war machine, that is the minority's fight against domination, as proposed in *Mille Plateaux* and *Anti-Oedipe*, represents the minority's struggle for recognition. Deleuze and Guattari emphasise that every creation happens through such a war machine that can be both physically and spiritually expressed. The war machine should not be conceived as a will to gain power. Rather, it is the opening of an opportunity for creation and innovation. Thus, the minority community searching for non-territorial autonomy can be seen as such a creative force. This war machine exists radically outside the state system. The minorities act like nomads in relation to the war machine, and they express heterogeneity regarding the war machine and state bureaucracy. The minorities act in permanent 'lines of escape', which represents new ways of thinking in order to gain autonomy in relation to these machines and state totalities. The war machine challenges the mechanism of regulation and normalisation. It functions like a guerrilla or a revolutionary force that challenges the dominant power. This nomadic and guerrilla-like activity may be carried out in the form of art, philosophy, science and other activities that constitute new nomadic potential at the limits of the established structures of power in a society. The nomads, in all senses of the word, are the basis of creation of the new in society and politics. Thus, Deleuze and Guattari consider the struggle for non-territorial autonomy as a creative force at the limits of totalitarian domination by the authoritative forces in society.

Following this philosophical clarification of the principles of autonomy, what conclusion can we draw in order to define the concept of non-territorial autonomy as an instrument for protecting minorities? Deleuze and Guattari emphasise the importance of respect for minorities in non-territorial terms. Here, it is important to contribute to the movement of 'devenir minoritaire'. But, this movement is also characterized by a problematic concept of violence that is at the limits of the democratic concept of political philosophy. Therefore, we need to accomplish this idea with the ethical principles of social liberal political philosophy.

Here, the idea of respect for the autonomy and freedom of minorities can be concretised in the concept of 'Rechtsfreien Raum' as the basis of self-determination. The principles of dignity, integrity and vulnerability are also fundamental to this definition of legal principles as the basis of a political community of respect for human freedom, dignity and deliberative democracy. The extension of human rights to imply non-territorial autonomy as a special sphere of protection of human beings can be defined as based on the principles of moral and political democracy following Kant's and Mill's political philosophies of respect for individual

autonomy and the rule of law in both geographical and non-territorial political community. This suggests that a definition of non-territorial autonomy should be developed as an expression of 'political morality' and 'integrity', and this indicates that the juridical system is largely open to the outside world of politics and culture in the sense that a community of non-territorial autonomy also respects the rules of political democracy.

Legal principles and rights can be seen in the light of a general theory of legal judgment. Kant has distinguished between determinant and reflective judgment. Determinant judgment applies pre-given rules to a pre-given legal case, while reflective judgment searches for rules related to a new legal case. The creative function of reflective judgment is to apply the rule of law and protect the human person. This happens through developing legal principles that, as juridical fictions, help to construct acceptable solutions to protect both non-territorial autonomy and what is specifically human. The creation of legal principles and the definition of rights result from the creative function of judgment. Legal formalisation of a specific state of affairs ('the nature of things') is founded on creative judgments and dynamic interpretations of the solution for social conflicts in the ideals of social peace and justice.

The analysis of the concept of liberal autonomy based on the basic ethical principles of respect for autonomy, dignity, integrity and vulnerability of citizens in political community in relation to the specific field of non-territorial autonomy shows how the laws and legal regulation of non-territorial autonomy must be defined as a principle oriented towards legal thinking, where open principles and general legal standards determine legal development. Such principles have been defined by Ronald Dworkin in *Taking Rights Seriously* (Dworkin, 1977). Dworkin does not agree with Hart's positivist legal theory, which defines a legal system as an autonomous system of rules and is the only basis of interpretation in particular cases. In 'hard cases', the legal application is not simply a deduction of a sentence to a concrete according to positive legal rules. Judging cannot be considered only in the perspective of legal positivism as a deduction of pre-given rules. Legal principles are not only formulated as legal rules; rather, they are open legal standards that are the basis of a legal order without being directly formulated in legal rules. Legal thinking is based on both general legal principles and considerations of policy, and these are the general horizon for actual legal practice. Legal principles are at once present in the application of law and the basis for the legislator's formulation of policy as general legal standards to be followed in the application of law. Applied to non-territorial autonomy, this means that the legal principles and legal regulation of a community of non-territorial autonomy need to be based on law as political morality of democratic governance in order to be sure that the political autonomy of citizens and community is respected in the particular development of political construction of a community of non-territorial autonomy.

From autonomy to non-territorial autonomy

In this analysis, we have taken autonomy to be a basic principle in ethics and law. On this basis, we clarified the concept of autonomy in jurisprudence and the foundation for understanding non-territorial autonomy. The aim was to analyse the concept of non-territorial autonomy as an instrument for protecting minorities in line with this philosophical clarification of the meanings of autonomy. Though the concept of autonomy has been clearly explained, it could be argued that we are still lacking an explanation of whether there is a real distinction between the philosophical concept of autonomy and the notion of what is considered non-territorial

in relation to the philosophical concept of autonomy. The question here is whether there is an important difference between personal autonomy and territorial autonomy, and, subsequently, whether there is a difference between non-territorial autonomy and the proposed concept of autonomy. We must thus apply the proposed concept of autonomy to the notion of non-territorial autonomy to really make autonomy work. Considering this, we argue that we should understand non-territorial autonomy as the proposed concept of autonomy based on self-government in a pluralistic liberal society. The implication is therefore that autonomy is the ability to choose one's own way of life for oneself, which is essential for those who need non-territorial autonomy.

There can be autonomy without a territory if the vision of self-government of legal and political philosophy is respected. As argued, this means that people are considered to be autonomous when they are able to control their own lives and decisions, just as an independent government acts to control its own policies. Accordingly, non-territorial autonomy implies the capacity and responsibility of the individual to make personal choices and be free in existential engagement in development of a free society. The five important meanings of autonomy must therefore be applied to non-territorial autonomy: (1) the capacity for the creation of ideas and goals for life; (2) the capacity for moral insight, 'self-legislation' and privacy; (3) the capacity for rational decisions and actions without coercion; (4) the capacity for political involvement and personal responsibility; and (5) the capacity for informed consent to actions imposed from outside. Consequently, by applying this clarification of the meanings of autonomy to non-territorial autonomy as an instrument for protecting minorities, we can argue that this political and personal concept of autonomy is essential for the better protection of minorities.

Realisation of non-territorial autonomy based on legal judgment

The realisation of non-territorial autonomy as a legal principle is particularly relevant to the actual development of the law of autonomy, which is characterised by openness and has no precedence in pre-given rules. Hard cases and legislation on the protection of non-territorial autonomy issues are resolved considering general legal principles and legal standards. Legal standards are ethical and political principles that reflect the social and political self-understanding that emerges from the tension between the common good of society and respect for non-territorial autonomy. Here, it is difficult to distinguish between political and ethical standards: both are legal sources that may be based on general philosophical and religious aspects while taking into account cultural and historical aspects.

Thus, in the law of non-territorial autonomy, principles and rights are closely connected, and legal judgment must place these in relation to each other. Sometimes, there is a conflict between principles and rights because principles can limit rights. In other situations, principles might protect the basic human rights of minorities.

As can be deduced from the development of non-territorial autonomy in Europe, the relation between principles and concrete situations must be understood as a dynamic hermeneutical circle, in which both contribute to the development of the basic norms of law. The creative play of judgment between the general and the particular implies a creative tension between principle and situation, where there is no opposition between casuistry and principles. Principles are developed in concrete situations and structure the normative development of law. On the one hand, legal principles frame particular cases, and on the other hand, the

particular case of non-territorial autonomy. This gives general legal principles substantial content. Analysing different fields of law sharpens our understanding of the general framework and content of basic principles in law. Respect for non-territorial autonomy implies an equilibrium between situations and principles in a circle encompassing actual cases and general legal standards.

Conclusion

To summarise, a theory of non-territorial autonomy must include positive liberty and the active choices of the individual according to the principles of liberal democracy following Kant and Mill. As such, we present the five dimensions of autonomy that are essential for non-territorial autonomy: (1) the capacity for the creation of ideas and goals for life; (2) the capacity for moral insight, 'self-legislation' and privacy; (3) the capacity for rational decisions and actions without coercion; (4) the capacity for political involvement and personal responsibility; and (5) the capacity for informed consent to actions imposed from outside. These dimensions should be realised in non-territorial autonomy in legal judgments, hard cases of law and legal decision-making in order to ensure the positive development of a community of non-territorial autonomy as a free and just society.

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